

ASSEMBLY BILL NO. 403—ASSEMBLYMEN
GRADY AND GOICOECHEA

MARCH 16, 2007

Referred to Committee on Taxation

SUMMARY—Makes changes concerning the production of alcoholic beverages in certain smaller counties. (BDR 32-949)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to alcoholic beverages; authorizing wineries in certain counties to engage in certain acts; requiring the Department of Taxation to adopt regulations governing certain acts of wineries in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law allows a winery located in a county with a population of less than
2 100,000 (currently counties other than Clark and Washoe Counties) to engage in
3 certain practices with respect to alcoholic beverages. (NRS 597.240) **Section 5** of
4 this bill provides that, under certain circumstances, such a winery may transport to
5 and sell at a farmers' market, certain wine-tasting events and a retail liquor dealer
6 wine produced at the winery. **Section 2** of this bill requires the Department of
7 Taxation to adopt regulations governing the transport and sale of wine in these
8 circumstances to ensure compliance with the laws of this State and the payment of
9 taxes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 369.382 is hereby amended to read as follows:
2 369.382 Except as otherwise provided in NRS 369.386 ~~and~~
3 ~~369.415, 1~~, **369.415 and 597.240**, a supplier shall not engage in the
4 business of importing, wholesaling or retailing alcoholic beverages
5 in this State.



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Sec. 2. NRS 369.450 is hereby amended to read as follows:

369.450 1. Every common carrier and every regularly operating contract carrier shall make available to the Department a statement or freight bill for every shipment of liquor into this State, showing:

(a) The names of the consignor, consignee and carrier of the shipment;

(b) The date when and place where the shipment was received; and

(c) The destination of the shipment.

2. The Department may adopt regulations requiring:

(a) The carrier to:

(1) Cause a person who is at least 21 years of age to sign for the receipt of each such shipment by the consignee, and to sign a document confirming the delivery of the shipment to the consignee, before the carrier permits the consignee to remove the shipment from the point of destination or possession of the carrier; and

(2) Forward to the consignor the signed document confirming the delivery of the shipment to the consignee; and

(b) The consignor to forward to the Department the signed document confirming the delivery of the shipment to the consignee.

3. *The Department shall adopt regulations governing the transport and sale of wine by a winery pursuant to NRS 597.240, including, without limitation, regulations which require the winery to provide documentation to ensure compliance with the laws of this State and the payment of required taxes.*

4. No liquor may be imported into this State except by a common carrier, a regularly operating contract carrier or a carrier having a special permit to do so.

~~14.1~~ 5. By special permit, the Department may authorize the transportation of liquor within this State by means of a conveyance owned and operated by a licensed importer, or a conveyance owned and operated by another, not being a common carrier or a regularly operating contract carrier. As a condition of such permit, the Department may require that a sign be carried on such conveyance, in letters at least 3 inches high, stating that the conveyance is carrying wholesale liquor by special permit. Such carriers by special permit are subject to the same rules respecting reports and deliveries of import liquors as are common carriers and regularly operating contract carriers.

~~15.1~~ 6. As used in this section:

(a) "Common carrier" means a person who undertakes for hire, as a regular business, the transportation of liquor from place to place, and who offers its services to all who choose to employ it and to pay its charges therefor.



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(b) "Regularly operating contract carrier" means a person who, as a regular business, transports liquor from place to place pursuant to continuing contractual obligations.

Sec. 3. NRS 369.4863 is hereby amended to read as follows:

369.4863 1. Except as otherwise provided in NRS 369.4865, a retail liquor store may receive and store liquor and transfer an original package of liquor to another retail liquor store, and that other retail liquor store may receive the original package of liquor pursuant to the transfer, if:

(a) Each retail liquor store is in the marketing area of the wholesale dealer that holds the franchise for the brand of liquor purchased as indicated by the forms filed by the wholesale dealer with the Department;

(b) The retail liquor store obtains a special permit for the transportation pursuant to subsection ~~4~~ 5 of NRS 369.450; and

(c) The initial retail liquor store:

(1) Obtained the original package of liquor in compliance with the provisions of this chapter and chapter 597 of NRS; and

(2) Is an affiliate of the retail liquor store that receives the transfer.

2. A transfer of an original package of liquor between retail liquor stores which are not located within the same marketing area may occur only if:

(a) The wholesale dealers in the marketing areas where the retail liquor stores are located:

(1) Are affiliates;

(2) Consent, in writing, to the transfer; and

(3) Hold the franchises for the brands of liquor purchased in each marketing area involved in the transfer;

(b) The retail liquor store obtains a special permit for the transportation pursuant to subsection ~~4~~ 5 of NRS 369.450; and

(c) The initial retail liquor store:

(1) Obtained the original package of liquor in compliance with the provisions of this chapter; and

(2) Is an affiliate of the retail liquor store that receives the transfer.

3. A transfer authorized by this section shall not be deemed a sale.

4. A retail liquor store that transfers or receives an original package of liquor as authorized by this section:

(a) Shall not be deemed to be engaged in business as a wholesale dealer based upon the transfer authorized by this section; and

(b) Shall not sell any original package of liquor that has been transferred to any other wholesale dealer or retail liquor store.



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5. A wholesale dealer shall notify the retail liquor stores located in the marketing area of the wholesaler dealer of the boundaries of that marketing area.

6. As used in this section:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

(c) "Liquor" does not include beer or malt-based beverages, but does include flavored malt beverages if the supplier and the wholesale dealer holding the franchise for such flavored malt beverages consent in writing. As used in this paragraph, "flavored malt beverages" means flavored malt beverages that are not marketed, merchandised or sold as beer.

(d) "Marketing area" has the meaning ascribed to it in NRS 597.136.

(e) "Retail liquor store" includes a facility that is owned or operated by a retailer and is used for the temporary storage and transfer of liquor pursuant to this section.

Sec. 4. NRS 369.4865 is hereby amended to read as follows:

369.4865 1. Except as otherwise provided in subsection 2, a retail liquor store that holds a nonrestricted license may transfer an original package of liquor to another retail liquor store that holds a nonrestricted license, and that other retail liquor store may receive the original package of liquor pursuant to the transfer, if:

(a) Each retail liquor store:

(1) Holds its nonrestricted license for the purposes set forth in subsection 2 of NRS 463.0177; and

(2) Is in the marketing area of the wholesale dealer from which the original package of liquor was obtained by the initial retail liquor store;

(b) The initial retail liquor store:

(1) Obtained the original package of liquor in compliance with the provisions of this chapter;

(2) Is an affiliate of the retail liquor store that receives the transfer; and

(3) Does not charge the retail liquor store that receives the transfer for the original package of liquor;

(c) Immediately before the transfer, the original package of liquor is located at the initial retail liquor store; and

(d) Pursuant to the transfer, the original package of liquor is transported from the initial retail liquor store to the other retail liquor store.

2. A retail liquor store that holds a nonrestricted license may transfer an original package of beer to another retail liquor store that



1 holds a nonrestricted license, and that other retail liquor store may
2 receive the original package of beer pursuant to the transfer, if the
3 wholesale dealer of the beer authorizes, in writing, the nonrestricted
4 licensee to make such a transfer.

5 3. A transfer authorized by this section shall not be deemed a
6 sale.

7 4. A retail liquor store that transfers or receives an original
8 package of liquor as authorized by this section:

9 (a) Shall not be deemed to be engaged in business as a
10 wholesale dealer based upon the transfer authorized by this section.

11 (b) Notwithstanding the provisions of subsection ~~44~~ 5 of NRS
12 369.450, may transport the original package of liquor from the
13 initial retail liquor store to the other retail liquor store without a
14 special permit for such transportation.

15 5. As used in this section:

16 (a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.

17 (b) "Marketing area" has the meaning ascribed to it in
18 NRS 597.136.

19 (c) "Nonrestricted license" has the meaning ascribed to it in
20 NRS 463.0177.

21 **Sec. 5.** NRS 597.240 is hereby amended to read as follows:

22 597.240 1. A winery located in a county whose population is
23 100,000 or less, if it is federally bonded, may:

24 (a) Import wine or juice from a bonded winery in another state,
25 to be fermented into wine or, if already fermented, to be mixed with
26 other wine or aged in a suitable cellar, or both.

27 (b) Sell at retail or serve by the glass, on its premises and at one
28 other location, wine produced, blended or aged by the winery. The
29 amount of wine sold at a location other than on the premises of the
30 winery may not exceed 50 percent of the total volume of the wine
31 sold by the winery.

32 (c) Serve by the glass, on its premises, any alcoholic beverage.

33 *(d) Transport to and sell at a farmers' market wine produced*
34 *at the winery if:*

35 *(1) The quantity transported and sold at a single farmers'*
36 *market does not exceed 12 cases on a single day; and*

37 *(2) The winery complies with the regulations adopted by the*
38 *Department of Taxation pursuant to subsection 3 of NRS 369.450.*

39 *(e) Transport to and sell at a wine-tasting event sponsored by a*
40 *nonprofit organization wine produced at the winery if:*

41 *(1) The quantity transported to and sold at the wine-tasting*
42 *event does not exceed 12 cases; and*

43 *(2) The winery complies with the regulations adopted by the*
44 *Department of Taxation pursuant to subsection 3 of NRS 369.450.*



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1 *(f) Transport and sell to a retail liquor dealer wine produced at*
2 *the winery if:*

3 *(1) The quantity transported and sold does not exceed one*
4 *case per month; and*

5 *(2) The winery complies with the regulations adopted by the*
6 *Department of Taxation pursuant to subsection 3 of NRS 369.450.*

7 2. For the purposes of this section, an instructional wine-
8 making facility is not a winery. This section does not prohibit a
9 person from operating an instructional wine-making facility in any
10 county.

11 3. *As used in this section, “farmers’ market” has the meaning*
12 *ascribed to it in NRS 244.336.*

